

REMARKS/ARGUMENTS

I. Claim Objections

Applicant thanks the Examiner for discussing the need for commas before *wherein* clauses. Applicant has amended the claims so that such commas are present.

II. Claim Rejections – 35 U.S.C. § 112

The Examiner has rejected claims 1-42 as indefinite.

In particular, claims 1 and 23 were rejected as indefinite because they “are incomplete and unclear” and because the method steps are not in gerund form. Applicant has not been able to find any requirement that method steps be written in gerund form. It appears, indeed, that there is none. *Ex parte Lewin*, 154 USPQ 487, 488 (Pat. Off. Bd. of App. 1966). There no ambiguity in claims 1 and 23 because they are readily understood. Nonetheless, applicant has amended claims 1 and 23 to put them in the form of gerunds. Applicant notes that it is the using of a galactose-containing compound as a carbon source in at least one of the recited culture media that is what is presently claimed.

Applicant is unclear what the Section 112 rejection for claims 13 and 33 is. The claims recite that “the prematuration medium contains less auxin and less cytokinin than the nutrient medium used during proliferation.” The Examiner states that these claims “are broad” and “it is unclear how much of the growth regulators are utilized when in comparison to the prematuration and proliferation media.” That claims are broad is no hindrance to their being clear. MPEP § 2173.04 (“Breadth of a claim is not to be equated with indefiniteness”). The term “less” is well understood as meaning not as great in amount or quantity. *Am. Heritage Dict.* (4th ed. 2000).

Thus, these claims are simple formulas which call for the prematuration medium to have not as much auxin and not as much cytokinin as the proliferation medium. They are not unclear.

Claim 18 calls for the galactose-containing compound to be “more than about 1% of the nutrient medium.” The Examiner asserts that this is indefinite because it is a relative term. “The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. § 112 ¶2.” MPEP 2173.05(b). Because infringement of this claim can be determined by measuring the amount of galactose-containing compound, it is not indefinite. *W.L. Gore & Assoc., Inc. v. Garlock, Ind.*, 721 F.2d 1540, 220 USPQ 303, 316 (Fed. Cir. 1983).

Applicant has amended claims 1 and 23 to refer to a nutrient medium, thus addressing the antecedent rejection as to claims 22, 28 and 40 (and other claims not identified by the Examiner).

Applicant has amended claim 39 to address the missing antecedent objection.

III. Allowable Claims

The Examiner indicated that “[c]laims 15-17 and 35-37 were free of the prior art because the prior art does not teach or suggest the method of reproducing conifers in which one of induction, proliferation and prematuration steps media containing galactose-containing sugar are supplemented with additional sugars.” Accordingly, Applicant has amended claims 1, 23, and 41 to require that at least one of the induction, proliferation and prematuration media containing galactose-containing sugars are supplemented with additional sugars. Claims dependent from these claims were amended to provide correct antecedent basis. Claims 44 and 45, calling for the galactose-containing sugar to be galactose, were added.

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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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